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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 ROBERT JOSEPH LUMPKIN,

9 Plaintiff,

10 v.

11 DEPUTY SALT, *et al.*,

12 Defendants.

Case No. C18-330-RSM-JPD

ORDER GRANTING DEFENDANTS'
MOTION FOR PROTECTIVE ORDER
AND MOTION TO SEAL

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14 This is a civil rights action brought under 42 U.S.C. § 1983. This matter comes before
15 the Court at the present time on defendants' motion for protective order and motion to seal.
16 (Dkt. 23.) At issue in defendants' motions is video surveillance footage from the Snohomish
17 County Jail ("the Jail") which plaintiff requested in discovery. (*See id.*)

18 Plaintiff alleges in this action that defendants violated his constitutional rights when, on
19 January 11, 2018, they removed his clothing in a public area of the Jail during the booking
20 process. (*See* Dkt. 7 at 3.) Plaintiff asked in his initial discovery requests that defendants
21 produce video surveillance of the January 11, 2018 incident. (*See* Dkt. 24, Ex. D.) Defendants
22 objected to that request for Jail security reasons. (*See id.*, Ex. E.)

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1 When plaintiff did not respond to defendants' objection to providing a copy of the Jail
2 surveillance video, counsel for defendants contacted plaintiff's counselor at the Clallam Bay
3 Corrections Center ("CBCC") to set up a time to confer with plaintiff regarding the video. (Dkt.
4 24, ¶ 7.) On June 21, 2018, defendants' counsel spoke with plaintiff about the video, proposing
5 a procedure that would allow plaintiff to view the video without possessing a copy of it. (*Id.*, ¶
6 8.) Specifically, counsel proposed that her office send a copy of the video to the CBCC law
7 librarian, that plaintiff have one day to view the video, and that the video then be returned to
8 counsel's office. (*Id.*) Plaintiff equivocated about whether he was amenable to this procedure,
9 but ultimately indicated he would agree to the procedure though he wanted a week to view the
10 video rather than a single day. (*Id.*) Counsel advised plaintiff that she would not agree to the
11 extended time to view the video, but would convey plaintiff's position to the Court. (*Id.*)

12 Defendants now seek a protective order regarding the video so that they may provide the
13 video to plaintiff using the procedure proposed by defendants' counsel, and so that they may file
14 it under seal in support of any dispositive motions. Pursuant to Fed. R. Civ. Pro. 26(c)(1), a
15 court may, for good cause, issue an order "to protect a party or person from annoyance,
16 embarrassment, oppression, or undue burden or expense." Defendants argue in their motion for
17 protective order that such an order is necessary in this case because allowing plaintiff to possess
18 a copy of the surveillance video raises serious security concerns. (Dkt. 23 at 3.) The primary
19 concern identified by defendants is the potential for the video to be shared with other offenders
20 or the public in general.¹ (*Id.*)

21
22 ¹ Defendants also assert that providing plaintiff with a copy of the video raises a security concern because
the disc on which the video would be produced could easily be converted to a weapon. (Dkt. 23 at 3.) While this is
no doubt true, it appears that the DOC has procedures in place to address such concerns. (*See* Dkt. 24, ¶ 8.) This

1 Defendants explain that the Snohomish County Jail's video surveillance system is one of
2 its most important tools for maintaining the safety, security, and orderly operations of the
3 facility. (*See* Dkt. 25, ¶ 6.) Defendants further explain that while there are several hundred
4 cameras located throughout the facility which can be monitored by staff and which record events
5 on network video recorders, not all cameras are actively monitored, not all cameras record all of
6 the time, and not all fields of view are the same amongst all the cameras in the facility. (*See id.*
7 at, ¶¶ 6, 8.)

8 Defendants maintain that providing inmates access to recordings of jail surveillance
9 videos would give them specific intelligence information regarding the surveillance and
10 recording capabilities and weaknesses of cameras at locations depicted in the video at issue.
11 (Dkt. 23 at 4; Dkt. 25, ¶ 10.) In addition, defendants assert that there is the potential that inmates
12 would be able to determine from the video staff response times, locations from which staff are
13 responding, the length of time it takes to open doors into an area, staffing patterns, specific
14 defense tactics or techniques, and weaknesses and abilities of individual staff members, all of
15 which would undermine the efficacy of the surveillance system. (*See id.*)

16 Defendants have detailed legitimate security concerns relating to the potential for
17 distribution of the requested video footage.² Defendants have also proposed a viable alternative
18 to providing plaintiff with a copy of the video which would permit him to view, but not retain,
19 the video footage. The Court concurs that defendants' proposal provides plaintiff adequate

20 particular security concern is not defendants' to advance given that plaintiff is not now in Snohomish County
21 custody.

22 ² Plaintiff has not opposed defendants' motion for a protective order, though he did complain in a recently
23 filed motion for sanctions that defendants had yet to produce the surveillance video. (*See* Dkt. 28.)

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1 access to the video for purposes of litigating this case, while also mitigating security concerns
2 surrounding disclosure of the video. Accordingly, the Court hereby ORDERS as follows:

3 (1) Defendants' motion for protective order and motion to seal (Dkt. 23) is
4 GRANTED. Defendants shall make a copy of the video surveillance footage of the January 11,
5 2018 incident at issue in this action available to plaintiff as follows:

6 (a) A copy of the video will be sent to the law librarian at the CBCC;

7 (b) Plaintiff will view the video in a room designated by the Washington State
8 Department of Corrections (DOC) and the CBCC, such as the law library, and in
9 accordance with applicable policies of the DOC and the facility;

10 (c) Plaintiff will view the contents of the video, but not retain or possess a copy.
11 Plaintiff will have one (1) day to review the video, which is about fifteen (15)
12 minutes in length. Defendants shall coordinate with CBCC staff to set a date for
13 plaintiff to view the video, and to ensure that plaintiff has ample time on the
14 designated date to view the video;

15 (d) Defendants shall submit a copy of the video to the Court by the dispositive motion
16 filing deadline. The video will be filed with the Court under seal, and will be
17 available to be used by either party in any dispositive motion, or in response to a
18 dispositive motion.

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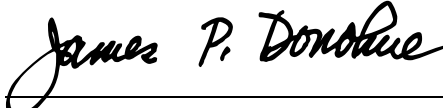
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1 (2) The Clerk is directed to send copies of this Order to plaintiff, to counsel for
2 defendants, and to the Honorable Ricardo S. Martinez.

3 DATED this 22nd day of August, 2018.

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5 JAMES P. DONOHUE
6 United States Magistrate Judge
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